

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

BRIAN L. BATES,
SCOTT E. BOATMAN, DAVID G. BURTON,
MICHAEL C. HOFFA,
DARIN G. SCHAEFFER, JASON S. STURGEON, and
ANTHONY O. RAGHEB
Junior Party
(Patent 7,803,149),

v.

ULRICH SPECK
and BRUNO SCHELLER,
Senior Party
(Application No. 11/763,125),

Patent Interference No. 105,787
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

Part A. Declaration of interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s)

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 and claims designated as corresponding or as not corresponding to the count(s) appear
2 in Parts E and F of this DECLARATION.

3 Part B. Judge managing the interference

4 Administrative Patent Judge Sally Gardner Lane has been designated to manage
5 the interference. Bd. R. 104(a).

6 Part C. Standing order

7 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
8 DECLARATION. The STANDING ORDER applies to this interference.

9 Part D. Initial conference call

10 A telephone conference call to discuss the interference is set for 2:00 p.m. on 13
11 January 2011 (the Board will initiate the call).

12 No later than four business days prior to the conference call, each party shall
13 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
14 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15 A sample schedule for taking action during the motion phase appears as Form 2
16 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to
17 the conference call and to agree on dates for taking action. A typical motion period
18 lasts approximately eight (8) months. Counsel should be prepared to justify any request
19 for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named inventors: Brian L. Bates, Bloomington, IN;
Scott E. Boatman, Bloomington, IN;
David G. Burton, Bloomington, IN;
Michael C. Hoffa, Ellettsville, IN;
Darin G. Schaeffer, Bloomington, IN;
Jason S. Sturgeon, Solsberry, IN;
Anthony O. Ragheb, West Lafayette, IN;

Involved Patent: 7,803,149 issued 28 September 2010, from application
10/618,977 filed 14 July 2003

Title: COATED MEDICAL DEVICE

Assignee: Cook Incorporated, Med Institute, Inc., and William A Cook
Australia Pty Ltd.

Senior Party

Named Inventors: Ulrich Speck, Berlin, GERMANY;
Bruno Scheller, Saarbrücken, GERMANY;

Involved Application: 11/763,125, filed 17 June 2007

Title: PREPARATION FOR THE PROPHYLAXIS OF
RESTENOSIS

Assignee: None available

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

Part F. Count and claims of the parties

Count 1

Claim 97 of Speck wherein the lipophilic agent is paclitaxel.

The claims of the parties are:

Bates: 1-23

Speck: 97

The claims of the parties which correspond to Count 1 are:

Bates: 1-23

Speck: 97

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Bates: none

Speck: none

1 The parties are accorded the following benefit for Count 1:
2
3 Bates: US 60/395,434, filed 12 July 2002
4
5 Speck: US 10/472,844, filed 16 March 2004, now patent 7,750,041
6 issued 6 July 2010
7
8 PCT/DE01/04782, filed 20 December 2001
9
10 DE 101 15 740, filed 26 March 2001

Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see

SO ¶ 106.1.1:

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1 Part H. Order form for requesting file copies

2 When requesting copies of files, use of SO Form 4 will greatly expedite
3 processing of the request. Please attach a copy of Parts E and F of this
4 DECLARATION with a hand-drawn circle around the patents and applications for which
5 a copy of a file wrapper is requested.

6
7
8 /Sally Gardner Lane/
9 Administrative Patent Judge
10

11
12 Enc:

13 Copy of STANDING ORDER
14 Form PTO-850
15 Copy of claims of 11/763,125
16 Copy of claims of 7,803,149

1 cc (via overnight delivery):
2

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4

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